

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today  
(1) was not written for publication in a law journal and  
(2) is not binding precedent of the Board.

Paper No. 20

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte SUSAN F. HENSHAW

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Appeal No. 1997-1253  
Application 08/165,430<sup>1</sup>

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ON BRIEF

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Before MARTIN, JERRY SMITH and FRAHM, Administrative Patent Judges.

JERRY SMITH, Administrative Patent Judge.

DECISION ON APPEAL

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<sup>1</sup>Application for patent filed December 10, 1993.

This is a decision on the appeal under 35 U.S.C. § 134 from the examiner's rejection of claims 1-21, which constitute all the claims in the application.

The disclosed invention pertains to a method and apparatus for enhancing the selection of particular windows in a graphical user interface. A depth control object is displayed which indicates all the windows which are currently open and the hierarchical depth of the respective windows on the desktop. The user can alter the visible display of the windows by simply manipulating the depth control object without otherwise changing the hierarchical depth of the windows.

Representative claim 1 is reproduced as follows:

1. A graphic method for permitting access to any one of multiple windows displayed in a graphical user interface and which are relatively positioned in an order from a bottom position to a top position, said method comprising the steps of:

displaying a depth control object within said graphical user interface, said depth control object including a plurality of graphic elements arranged in said order, each of said plurality of graphic elements corresponding to one of

said windows; and

altering said display of said windows within said graphical user interface in response to a selection by a user of a particular one of said graphic elements within said depth control object to display a selected window corresponding to said particular one of said graphic elements and each window relatively positioned beneath said selected window.

The examiner relies on the following reference:

Bloomfield et al. (Bloomfield) 5,412,776 May 2, 1995  
(filed Dec. 23, 1992)

Claims 1-21 stand rejected under 35 U.S.C. § 102(e) as being anticipated by the disclosure of Bloomfield. The final rejection of claims 17-21 under 35 U.S.C. § 101 has been withdrawn by the examiner [answer, page 4].

Rather than repeat the arguments of appellant or the examiner, we make reference to the brief and the answer for the respective details thereof.

OPINION

We have carefully considered the subject matter on appeal, the rejection advanced by the examiner and the evidence of anticipation relied upon by the examiner as support for the rejection. We have, likewise, reviewed and taken into consideration, in reaching our decision, the

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appellant's arguments set forth in the brief along with the examiner's rationale in support of the rejection and arguments in rebuttal set forth in the examiner's answer.

It is our view, after consideration of the record before us, that the disclosure of Bloomfield does not fully meet the invention as set forth in claims 1-21. Accordingly, we reverse.

Anticipation is established only when a single prior art reference discloses, expressly or under the principles of inherency, each and every element of a claimed invention as well as disclosing structure which is capable of performing the recited functional limitations. RCA Corp. v. Applied Digital Data Systems, Inc., 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir.); cert. dismissed, 468 U.S. 1228 (1984); W.L. Gore and Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 1554, 220 USPQ 303, 313 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984).

The examiner indicates how he reads each of the appealed claims on Bloomfield in the final rejection. With respect to independent claims 1 and 7, which stand or fall together [brief, page 5], appellant argues that the window list 106 of Bloomfield does not display the depth control object nor have the depth control function of the altering step as recited in these claims [brief, pages 7-9]. The examiner indicates that Figure 5 of Bloomfield demonstrates the altering step of claim 1. We agree with appellant.

It is clear from Figure 5 of Bloomfield that the open windows displayed in Window List window 106 are not arranged in the order of depth as required by independent claims 1 and 7. Note that the desktop 100 shows a Reports-Tree View window and a Reports-Setting window in front of and overlapping the Reports-Details View window. In Window List window 106 (the depth control object), however, the Details View item appears above the Tree View item while it is below the Settings item. Thus, the items listed in Window List window 106 of Bloomfield are not correlated to the actual depth positions of the open windows as required by claims 1 and 7. Note that the

positioning of the windows in bottom to top order as recited in the preamble of the claims is the same order in which the graphical elements of the depth control object must be arranged. In our view, Bloomfield clearly does not meet this limitation of independent claims 1 and 7. Therefore, we do not sustain the anticipation rejection of claims 1 and 7 or of claims 2-6 and 8-12 which depend therefrom.

With respect to independent claims 13 and 15 which stand or fall together [brief, page 5], appellant points to Figure 5 of Bloomfield and argues that Window List window 106 of Bloomfield does not meet the relative depth feature as recited in these claims [brief, pages 10-11]. We agree. The examiner points to window 112 in Bloomfield's Figure 4 as meeting all the limitations of these claims [answer, pages 5-6]. We fail to see how the Reports Settings window 112 of Bloomfield determines the relative depth of overlapping windows or constitutes a display of the relative depth of each overlapping representation. There is no relationship in any of the windows of Bloomfield between the depth of the open windows on the desktop and a separate window for indicating the relative depths of each of the open windows on the

desktop. Therefore, we do not sustain the anticipation rejection of claims 13 and 15 or of claims 14 and 16 which depend therefrom.

With respect to independent claim 17, appellant argues that Bloomfield does not meet the claimed recitation of accessing a desired window without changing the hierarchy of windows [brief, pages 11-12]. The examiner considers the indented listings of windows 106 and 110 of Bloomfield as meeting this claim limitation. We again agree with appellant. The windows showing indented information in Bloomfield have nothing to do with the hierarchy of windows on the desktop. If an open window is selected in Bloomfield to become the active window, that selected window moves to the top of the order and the hierarchy of the windows on the desktop is changed. The graphical user interface of Bloomfield does not permit the user to access a window without changing the hierarchy of the windows. Therefore, we do not sustain the anticipation rejection of claim 17 or of claims 18-21 which depend therefrom.

In summary, we have not sustained the examiner's rejection of any of claims 1-21 under 35 U.S.C. § 102.

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Therefore, the decision of the examiner rejecting claims 1-21  
is reversed.

REVERSED

John C. Martin	)	
Administrative Patent Judge	)	
	)	
	)	BOARD OF PATENT
Jerry Smith	)	
Administrative Patent Judge	)	APPEALS AND
	)	
	)	INTERFERENCES
	)	
Eric S. Frahm	)	
Administrative Patent Judge	)	

JS/dm

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